

FINAL VERSION OF PROPOSED 330 CMR 12.00

330 CMR 12.00: LICENSING AND OPERATION OF PET SHOPS

Section

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12.01: Definitions.

For the purposes of 330 CMR 12.00, the terms below shall have the following meanings:

Applicant. A Person who has applied for a License or renewal of License from the Department.

Department. The Department of Agricultural Resources.

Impervious. A non-porous, impermeable surface through which a liquid will not be allowed to pass but upon which water will bead.

Offer for sale. To display or have within view of the public an animal in a pet shop or otherwise make known that an animal is available for sale, barter, exchange, or give away.

License. Revocable permission to sell certain birds, mammals, reptiles, or amphibians from a pet shop.

Licensee. A Person who has received a Class A, B, or C License from the Department.

Person. An individual, trust, firm, joint stock company, corporation, partnership, association, cooperative, or other business organization and any officer, employee, representative, or agent thereof.

Pet Shop. A place or premises where birds, mammals, or reptiles are kept for the purpose of either wholesale or retail sale, import, export, barter, exchange, or gift.

Taxonomic derivation. The Latin nomenclature for the genus and species.

Transfer. To barter, exchange, adopt out, give away or otherwise transmit ownership of an animal to someone other than the Licensee.

12.02: Licenses

- (1) License; Generally. No Person may operate a pet shop within the Commonwealth of Massachusetts without an appropriate License issued by the Department. A License granted under 330 CMR 12.00 shall be issued to a Person and is only valid for the Pet Shop name, location, and ownership specified therein. Licenses are non-transferable.
- (2) Types of License. Each License granted under 330 CMR 12.00 shall be a Class A, B, or C License depending upon the type(s) of animal(s) Offered for Sale. No Person may Offer for Sale, sell, Transfer or place in a Pet Shop an animal without a License that specifically permits that type of animal under the License class as follows:
 - (a) Class A: birds, reptiles, amphibians, and mammals, including dogs and cats.
 - (b) Class B: birds, reptiles, amphibians, and mammals not including dogs or cats.
 - (c) Class C: reptiles, amphibians, and mammals not including dogs or cats.
- (3) License Application. Each complete application for a License or renewal of License shall be submitted to the Department on forms supplied by the Department, shall contain such information as the Department shall require, and shall be accompanied by the required fee.
- (4) Issuing of License. Upon receipt of a complete application, the Department shall inspect the Applicant's facilities, records, and method of operation for a renewal of License application or proposed method of operation for a non-renewal License application. If the Department finds the facilities, records, and method of operation or proposed method of operation in compliance with 330 CMR 12.00, the Department may approve the application and issue the appropriate Class A, B, or C license. Each Class A, B, or C License shall expire on December 31st of that year. For purposes of 330 CMR 12.02(4) and (6), an Applicant shall be required to comply with all applicable requirements of a Licensee of the same License class.
- (5) Display of License. The original of the most recent License issued by the Department to the Licensee shall be promptly posted in the pet shop in a place prominently visible to the public.
- (6) The Department may deny, revoke or suspend a license upon finding that:
 - (a) The Licensee or Applicant fails to comply with 330 CMR 12.00; or
 - (b) The Licensee or Applicant, three years prior to or after the submittal of an application, has:
 1. Violated any provision of M.G.L. c. 129, §§ 7, 9, 37, or 39A, or any regulation promulgated thereunder or been convicted of a violation of M.G.L. c. 272, § 77;
 2. Made a material misstatement in the application for a License or in the License renewal application;
 3. Assisted another in the violation of M.G.L. c. 129, §§ 7, 9, 37, or 39A or any regulation promulgated thereunder;
 4. Made a misrepresentation or false promise or failed to include "Pet Shop License number [Pet Shop's License number]" in advertisements in connection with a pet shop's operation;
 5. Dispensed prescription medication to accompany an animal at the time of sale or Transfer;
 6. Violated a quarantine order;

7. Violated an agreement with the Department;
 8. Made significant structural changes to the facility without prior approval from the Department after the facility was inspected for License approval per 330 CMR 12.02(4) or after a License was granted;
 9. Misrepresented or failed to provide a copy of the individual animal record to the customer as required by 330 CMR 12.09(2)(c);
 10. Made repeated record keeping violations including, but not limited to, making repeated or consistent errors, falsifying records, or failing to keep or produce required records; or
 11. Knowingly prevented a customer from using the 14 day warranty granted under 330 CMR 12.05(4).
 12. Made a change in the name, location, or ownership of the Pet Shop without prior approval from the Department after the facility was inspected for License approval per 330 CMR 12.02(4) or after a License was granted;
- (7) No License may be revoked or suspended, and no renewal License may be denied prior to a full and fair hearing, except in emergency situations the Department may suspend a License.
- (8) Any Licensee whose License has been suspended or Applicant whose application for a License has been denied and has not otherwise received a hearing may submit a written request for a hearing within 21 days following notification of the Department's decision to suspend or deny the License.

12.03: Facilities.

(1) General Facilities. Each Licensee shall:

- (a) Maintain all buildings and premises in good repair and in a sanitary condition;
- (b) Maintain and use equipment in a manner which ensures the proper storage and disposal of wastes or disease-contaminated material, including, but not limited to, medical supplies, syringes, needles, and sharps containers;
- (c) Maintain effective control measures to prevent the spread of disease, obnoxious odors, and the infestation of animals and premises with external parasites, insects, or vermin; and
- (d) Maintain artificial illumination in all areas and rooms in which animals are kept. The artificial illumination shall be well distributed and adequate to provide efficient inspection and cleaning of facilities, enclosures, cages and animals. Each cage and enclosure in use shall be placed in a manner that protects the animals contained from excessive or stressful illumination.

(2) Quarantine Room. Each Licensee shall:

- (a) Provide a room to be used exclusively for the purposes of quarantining sick or diseased animals as required by 330 CMR 12.06(2) and (3); and
- (b) Ensure that the room in addition to complying with the requirements of 330 CMR 12.03(1) and (5) is:
 1. Physically separated from rooms used to maintain other animals;
 2. Completely enclosed by walls that extend from floor to ceiling;

3. Equipped with an exhaust fan that serves to efficiently remove air from the room to an area outside the building and adequate ventilation to allow fresh air to circulate into the room;
4. Equipped with a sink having hot and cold running water used exclusively for the cleaning and maintenance of the room, all equipment and utensils used therein, and animals housed within the room;
5. Not used to house or maintain other animals, for storage, as an employee restroom, as a public access area, or any other such purpose;
6. Thoroughly cleaned and disinfected after animals have been removed and prior to the placement of other animals into the room; and
7. Maintained in such a manner that all equipment and utensils entering the room are thoroughly cleaned and disinfected before being taken out of the room.

(3) Isolation Room. In addition to providing a quarantine room as required by 330 CMR 12.03(2) each Class A Licensee shall:

- (a) Provide an isolation room for the exclusive purpose of isolating newly acquired dogs and cats as required by 330 CMR 12.07.
- (b) Ensure that the isolation room complies with the requirements of 330 CMR 12.03(1), (2)(b), and (5).

(4) Protective Clothing for Quarantine and Isolation Rooms. Each Licensee shall ensure that each person who enters a quarantine or an isolation room or otherwise feeds, waters, cleans, treats or handles quarantined or isolated animals or disease-contaminated equipment or material shall wear clean protective outerwear, gloves and shoe covers while so doing, and shall remove protective outerwear, gloves, and shoe covers and thoroughly wash their hands with a disinfectant detergent immediately upon leaving such room.

(5) Animal Facilities. Each area where an animal is housed or maintained shall be:

- (a) Cleaned and disinfected daily or more often if necessary to maintain a sanitary condition;
- (b) Of adequate size and space to permit:
 1. The animal(s) therein to stand, sit, lie down, turn around and make other normal postural adjustments without obstruction, interference or impediment by the presence of food and water bowls or cage mates; and
 2. The bird(s) within to fly, hop or otherwise move about, individually spread their wings and simultaneously perch in a normal position without obstruction;
- (c) Appropriate to provide the ambient temperature required for the animal considering its species, health, and age;
- (d) Constructed and maintained in accordance with the following provisions:
 1. Each wall shall be impervious to moisture from the floor to a height of four feet or to the height that the enclosed animal(s) can reach from its enclosure, whichever is higher;
 2. Each floor shall be impervious to moisture and no carpeted flooring may be permitted in animal areas;
 3. Any material used shall be resistant to rusting;

4. If the cage or enclosure has a wire floor, then the wire used shall be of adequate gauge to prevent sagging or injury to an animal's feet, and the mesh shall be small enough to prevent an animal's feet from falling through the bottom; and
- (e) Designed to permit the unimpeded access of the animal(s) to clean, fresh food and water.

- (6) In the event of zoonotic disease, the licensee shall follow any additional recommendations relative to protective clothing, equipment and procedures necessary to protect human and animal health, as prescribed by the Department. The Department may prescribe such recommendations in consultation with the Massachusetts Department of Public Health or other agencies

12.04: General Care of Animals

Each Licensee shall ensure that:

- (1) Sufficient fresh food of a type consistent with the dietary requirements and age of the species is offered to each animal daily, or at intervals commonly appropriate to the species and age of the animal;
- (2) Sufficient fresh and clean water is available to each animal at all times;
- (3) Bowls, dishes and other containers used for the feeding and watering of animals are cleaned daily or more often if necessary to maintain them free from contamination of excrement or urine;
- (4) A person is present for general care and maintenance of the animals at least once daily;
- (5) If animals are group housed, they are maintained in compatible groups without overcrowding;
- (6) No female dog, cat, bird, or rabbit in season is maintained in a cage, run, pen or other enclosure with a male dog, cat, bird, or rabbit, other than for breeding purposes and such breeding may not be within the view of the public;
- (7) Food and water containers for birds are designed to permit easy access to the contents. Each container shall be either designed or located within the cage in a manner that serves to minimize their contamination from excrement;
- (8) The animals are kept clean and dry unless species-specific requirements dictate an aquatic or semiaquatic environment. Each animal that falls within either of the latter two classifications shall be maintained in an environment that contains both aquatic and terrestrial features. Each feature shall be of sufficient size and space to permit the animal the option of submerging or soaking in clean water or remaining completely dry; and

- (9) All euthanasia is performed in accordance with accepted American Veterinary Association standards.

12.05: Restriction on Sale

- (1) No Licensee may, Offer for Sale, sell, or Transfer any animal with obvious signs consistent with any of the following conditions:
- (a) Infectious or contagious diseases including, but not limited to, distemper, hepatitis, leptospirosis, kennel cough, coccidiosis giardiasis, parvo virus, or rabies,;
 - (b) Nutritional diseases including but not limited to, rickets, emaciation, and hypo-vitaminosis;
 - (c) Evidence of severe parasitism which is impacting the general health of the animal;
 - (d) Fractures, lameness or congenital abnormalities affecting the general health of animal;
 - (e) Metabolic disease including, but not limited to, kidney disease and diabetes;
- (2) No Licensee may Offer for Sale, sell, or Transfer a reptile, amphibian, or invertebrate without posting its Taxonomic derivation.
- (3) No Class A Licensee may:
- (a) Offer for sale, sell, or Transfer any dog younger than six months of age without posting, in a place readily visible to the public where dogs are Offered for Sale, a sign which states the following in black lettering not less than thirty-eight point size upon a white background: "THE FOLLOWING INFORMATION IS ALWAYS AVAILABLE ON ALL OF OUR PUPPIES: THE PUPPY'S DATE OF BIRTH, CITY/TOWN AND STATE OF BIRTH, THE DATE [name of pet shop or 'THIS PET SHOP'] RECEIVED THE PUPPY, THE PUPPY'S COMPLETE VACCINATION, WORMING, MEDICATION, AND TREATMENT RECORDS, AND THE PUPPY'S 14-DAY WARRANTY. THIS INFORMATION IS AVAILABLE UPON REQUEST AND WILL BE PROVIDED TO PURCHASER AT THE TIME OF SALE.";
 - (b) Acquire, Offer for Sale, sell or Transfer a dog or cat younger than eight weeks of age;
 - (c) Accept, Offer for Sale, sell, or Transfer a kitten unless the source of the kittens is known and there is valid documentation that the dam of the kitten is currently vaccinated for rabies and the vaccination was administered at least 30 days prior to the birth of the kitten; or
 - (d) Offer for sale, sell, or Transfer a dog or cat:
 - 1. Unless the Licensee is in possession of a health certificate issued by a licensed veterinarian dated not more than seven calendar days previous to the Offer for Sale, sale, or Transfer;
 - 2. Which has been returned to the Licensee due to its failure to pass a veterinary examination after its sale, or Transfer to a customer, unless the animal is examined by a licensed veterinarian, after the date of the return, and a subsequent health certificate, dated after the date of the return, has been issued to the Licensee;
 - 3. Which is under a quarantine order, issued under the authority of M.G.L. c. 129, §§ 11, 21 and 22; or
 - 4. Which is currently receiving medication or showing clinical signs of disease.

- (4) Each Class A Licensee shall, within a reasonable amount of time, provide, at the customer's choice, a substitution animal or a full refund of the purchase price of a dog or cat to any customer who:
 - (a) Within 14 calendar days of the sale, Transfer, or purchase, has the dog or cat examined by a licensed veterinarian of the customer's choice, and the examination indicates the dog or cat is diseased or has a congenital disorder; and
 - (b) Presents to the Licensee within three days of the date of the examination the dog or cat, a veterinarian's written statement that the dog or cat is diseased or has a congenital disorder, and proof of sale, Transfer, or purchase.
- (5) No Class B Licensee may Offer for Sale, sell, or Transfer cats or dogs.
- (6) No Class C Licensee may Offer for Sale, sell, or Transfer cats, dogs, or birds.
- (7) Notwithstanding any provision to the contrary a Licensee may give away an animal affected with a medical condition that is neither infectious, or contagious provided that the Licensee:
 - (a) Provides the customer with full disclosure of the animal's medical condition, including but not limited to, a licensed veterinarian's estimate of the cost to correct or maintain the animal with said condition; and
 - (b) Obtains a signed statement from the customer stating the customer is aware of the animal's non-infectious, non-contagious, medical condition and that the customer accepts responsibility to provide the proper medical care for the animal.

12.06: Quarantine

- (1) The Department may order a quarantine be placed on the entire pet shop of a Licensee, on a specific species, on a special group of animals or an individual animal for any of the following:
 - (a) Excessive parasitism;
 - (b) General malnutrition;
 - (c) Presence of infectious or contagious disease on the pet shop premises;
 - (d) The importation of a dog or cat into Massachusetts in violation of M.G.L. c. 140, § 138A, or 330 CMR 3.00;
- (2) Each animal which the Department has ordered quarantined shall be maintained in a quarantine room meeting the requirements of 330 CMR 12.03(2).
- (3) Each animal affected with any of the conditions of 330 CMR 12.05(1) shall be maintained in a quarantine room meeting the requirements of 330 CMR 12.03(2) until released by order of a licensed veterinarian.
- (4) If any animal required under 330 CMR 12.06 (2) or (3) to be maintained in a quarantine room meeting the requirements of 330 CMR 12.03(2) is not so maintained the Department may order a quarantine be placed on the entire facility of a Licensee.

12.07: Isolation

Each Class A Licensee shall:

- (1) Isolate all dogs and cats received from sources within or outside of the Commonwealth, including those dogs and cats returned to the store by customers, in a room meeting the requirements of 330 CMR 12.03(3) for a minimum period of 72 hours prior to the Offer for Sale, sale, or Transfer of the cat or dog received;
- (2) Introduce no new dogs or cats into this room during the 72-hour isolation period; and
- (3) Have each dog or cat checked by a licensed veterinarian after the 72-hour isolation period is complete and prior to the Offer for Sale, sale, or Transfer of the cat or dog received.

12.08: Inspection

All animal records, including but not limited to those required by 330 CMR 12.09, and the pet shop shall be open for inspection by duly authorized agents of the Department, the M.S.P.C.A. and the Animal Rescue League of Boston during reasonable hours. Copies of these records shall be maintained and be available at the pet shop where the animals are sold.

12.09: Records

(1) Each Licensee shall:

- (a) Keep a record of each group of animals that enters the pet shop on a standard group animal record form produced by and available at the Department. Each record shall include the following:
 1. Number and type of animal(s) entering the pet shop;
 2. The name and address of person(s) from whom each group of animals was obtained and the date the group of animals was obtained; and
 3. The name and addresses of person(s) to whom each animal of the group was sold, Transferred to, or purchased by, and the date of the sale, Transfer, or purchase.
- (b) Each group animal record shall be maintained for 12 months from the time the last animal(s) of the group of animals was sold, Transferred, or purchased.

(2) Each Class A and B Licensee shall:

- (a) Keep an individual animal record for each dog, cat, or bird entering the pet shop on a standard individual animal record form produced by and available at the Department. Each individual animal record shall include the following:
 1. Identity of each animal;
 2. Name and address of person(s) from whom each animal was obtained, date obtained, and The city/town and state where each dog younger than six months of age was born;
 3. Name and address of person(s) to whom each animal was sold, Transferred to, or purchased by and the date of sale, Transfer, or purchase,;
 4. Type and date of any vaccination or treatment given to each animal;

5. All prophylactic and therapeutic medications administered to each animal, identified by name of drug, dates and duration of administration, and medication dosage.
 6. Veterinarian's diagnosis of conditions for any treatment each animal received; and
 7. Mortality and cause, if known, including euthanasia and the reason for the euthanasia.
- (b) Retain each individual animal record for a period of 12 months from the date of the sale, Transfer, or purchase, of each animal;
 - (c) Retain a copy of each kitten's dam's current valid rabies vaccination certificate for 12 months from the time each kitten enters the pet shop; and
 - (d) Give to each customer at the time of sale, Transfer, or purchase of a dog, cat, or bird a copy of an animal's individual animal record, maintained by the Licensee as required pursuant to 330 CMR 12.09(2).
- (3) In addition to the requirements of 330 CMR 12.09 (2)(d), each Class A Licensee shall give to the customer at the time of sale, Transfer or purchase of a dog or cat a notice of the 14-day warranty as provided for in 330 CMR 12.05(4). Each customer shall sign a statement acknowledging receipt of these materials, to be kept as part of the animal's individual animal record maintained by the Licensee.

REGULATORY AUTHORITY

330 CMR 12.00: M.G.L. c. 129, §§ 2, 7, 9, 37 and 39A.

PUBLIC HEARING NOTICE

ANIMAL HEALTH REGULATIONS: PROPOSED REVISION. THE COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF AGRICULTURAL RESOURCES HEREBY GIVES A NOTICE OF A PROPOSED REVISION OF REGULATIONS at 330 Code of Massachusetts Regulations 12.00 ("330 CMR 12.00"), "LICENSING AND OPERATION OF PET SHOPS" pursuant to its authority established in Massachusetts General Laws Chapter 129, Sections 2, 7, 9, 37 and 39A. The Department will conduct two public hearings on Wednesday, April 7, 2004 to consider the proposed regulations as follows:

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| 9 a.m. – 11 a.m. | Waltham 4-H Center (also known as Waltham Field Station), 240 Beaver Street, Waltham, MA in the Auditorium |
| 2 p.m. – 4 p.m. | Natural Resources Conservation Service, 451 West St., Amherst, MA in the Conference Room |

The Department is proposing substantial revisions to the pet shop regulations at 330 CMR 12.00. In response to bio-security concerns, issuance of pet shop licenses needs to be dealt with in a more efficient manner. There is a need to create standard record requirements that will facilitate state disease investigations and inspections of pet shops.

The proposed changes introduce definitions and clarify certain licensing and operating requirements to reduce ambiguity in current regulations. It creates three different classes of licenses according to which types of animals are sold and then sets forth the different standards each class must meet again, clarifying the requirements for each. Dividing licenses into classes allows the Department to concentrate their energies on the animals that pose a greater bio-security threat and require the most attention.

Copies of proposed regulations can be obtained at www.mass.gov/agr Department of Agricultural Resources, 251 Causeway Street, Suite 500, Boston, MA 02114 or by calling Ms. Esther Wegman 617-626-1795. Written comments will be accepted at the hearings and thereafter until close of business on April 14, 2004 and should be addressed to Mr. Kent Lage, Department of Agricultural Resources, 251 Causeway Street, Suite 500, Boston, MA 02114 by regular mail or email Kent.Lage@state.ma.us, or fax (617-626-1850).

By: Douglas P. Gillespie, Commissioner.